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Attorneys for Defendant, GERALD ARMSTRONG

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CHURCH OF SCIENTOLOGY OF CALIFORNIA,)	CASE NO: C 420 153
)	
Plaintiff,)	FIRST AMENDED ANSWER TO COMPLAINT
)	
vs.)	(PROPOSED)
)	
GERALD ARMSTRONG,)	
)	
Defendant.)	
)	
MARY SUE HUBBARD,)	
)	
<u>Intervenor.</u>)	

COMES NOW defendant, GERALD ARMSTRONG, for himself and for no other defendant, admits, denies and alleges as follows:

1.

ANSWER TO GENERAL ALLEGATIONS

- (1) Defendant admits paragraph 1.
- (2) Defendant denies that there are or should be any other individuals named as defendants in said action.
- (3) Defendant admits that he was a member of the Church of Scientology and a member of the Sea Organization from February 1971 until December 1980, but denies that the Sea

1 Organization is a "fraternal organization" or that members.
2 of the Sea Organization take "special vows of confidentiality".
3 Defendant states that members of the Church of Scientology in
4 general are often coerced into signing various legal documents,
5 the contents of which they either do not know or are informed
6 that the documents are just "for the government" and that
7 members need not be concerned about them. Defendant states
8 that the "non-disclosure and release bond" commonly utilized
9 by the plaintiff was considered to be unenforceable as a legal
10 document and contrary to public policy. Defendant states that
11 the non-disclosure and release bonds are generally used to
12 conceal criminal and tortious acts, conduct, policies, and
13 "operations" of the plaintiff which are designed to perpetrate
14 such acts.

15 (4) Defendant denies that he was a staff member
16 of the plaintiff and denies the remaining allegations of
17 par. 4. Defendant's position and membership in the Church of
18 Scientology is more specifically set forth in the Cross-Complaint
19 made a part hereof.

20 (5) Defendant denies that the plaintiff is a not-
21 for-profit corporation, admits that it is organized under the
22 laws of the state of California, denies that it is a religious
23 organization and admits that it has a principal place of business
24 in Los Angeles, California.

25 (6) Defendant admits that he was responsible and
26 appointed by L. Ron Hubbard to a project involving the collection
27 and maintenance of information and materials about Hubbard
28 and his commencement of Scientology. Defendants denies that

1 that Scientology is a religion, but rather claims that it
2 is a criminal conspiracy fraudulently started by Hubbard
3 that has engaged in a continuous pattern of criminal,
4 fraudulent and tortious operations, practices and policies
5 since its inception right up to the present date. Defendant
6 denies that he was an agent of the plaintiff but rather as
7 a party to a contract with Hubbard. Defendant states
8 that Hubbard had absolute control of all plaintiff's accounts,
9 that plaintiff acted as the agent of Hubbard and that any and
10 all of his activities were not conducted for the plaintiff
11 but rather for Hubbard. Defendant denies that any and all
12 materials collected or maintained by him in said project are
13 the personal property of plaintiff, but rather states that said
14 materials constitute his property or the property of Omar V.
15 Garrison. Defendant further states that the materials and
16 documents collected by him in said project in many respects
17 reveal a consistent pattern of fraud perpetrated by Hubbard
18 through his agent, the plaintiff, upon members of the Church
19 of Scientology and the public at large. Defendant asserts that
20 the membership of the Church of Scientology and the general
21 public have an interest in said materials and documents in
22 order to reveal the falsity of numerous representations uni-
23 formly made in writing by Hubbard and the plaintiff.

24 (7) Defendant admits that the purpose of
25 gathering and collecting the materials in his contract with
26 Hubbard was for the purpose of providing those materials to
27 Omar V. Garrison to write a biography of Hubbard. Defendant
28 asserts that when he learned the contents of

1 numerous materials they realized that Hubbard's background,
2 qualifications, credentials and claims as represented by
3 him and the plaintiff as his agent in writing have been
4 uniformly misrepresented and constitute a fraud on the public
5 at large which is purchasing plaintiff's publications and
6 also upon Church membership.

II.

ANSWER TO FIRST CAUSE OF ACTION

10 (8) Defendant repeats and repleads each and every
11 answer contained in answer 1 through 7 above and incorporates
12 the same herein as though fully set forth herein.

13 (9) Defendant denies the allegations in par. 9 and
14 claims that any materials in his possession were and are properly
15 in his possession and constitutes the property of him or Omar
16 Garrison, but that the plaintiff is "a public figure" and that
17 the information contained in any materials and documents in
18 his possession should be properly known to the public.

19 (10) Defendant denies that the property recited in
20 the Complaint has any value apart from the value of the infor-
21 mation contained in the documents. Defendant states that the
22 value of the information contained in the documents is incalculable
23 because if said information was made known to the public at
24 large and/or the membership of the Church of Scientology it
25 would uniformly refute almost all of the claims made about
26 Hubbard, his background, qualifications, credentials and purposes
27 in beginning the Church of Scientology.

28 ////

1 (11) Defendant denies that he wrongfully converted
2 any property but claims that said property was and is properly
3 in his possession and/or the possession of Omar V. Garrison.
4 Defendant further states that the xerography and use of any
5 photographic paper or chemicals was for Hubbard and not for
6 the plaintiff and that said xerography and photographic paper
7 and chemicals were properly utilized by him.

8 (12) Defendant denies that plaintiff has made any
9 proper written demand for said documents or materials, on the
10 grounds that said materials and documents do not belong to the
11 plaintiff but rather to the defendant and/or Omar Garrison.
12 Defendant also denies that there was any wrongful taking
13 and conversion of any property by defendant.

14 (13) Defendant denies that there has been any con-
15 version of any property or that any property in his possession
16 belongs to the plaintiff and therefore denies that the plaintiff
17 has incurred any damage in connection with any effort to regain
18 said property.

19 (14) Defendant denies that any of his acts were in-
20 tentional, deliberate, willful, wanton, malicious, oppressive,
21 or were committed with intent to defraud plaintiff or in disregard
22 of the rights of the plaintiff. Defendant denies that plaintiff
23 is entitled to recover any damages, but rather asserts that he
24 is entitled to recover damages as more fully set forth in his
25 Cross-Complaint filed herewith.

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SECOND CAUSE OF ACTION

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3 (15) Defendant repeats and replcads each and every
4 answer contained in paragraphs 1 through 7 above and incorporates
5 them herein as though fully set forth herein.

6 (16) Defendant denies that he became a fiduciary
7 to the plaintiff regarding any materials or documents under his
8 custody or control or that he assumed any legal duty to the
9 plaintiff except a legal duty in contract with Hubbard to
10 write his biography with Garrison with whom defencant had an
11 agreement as research assistant to provide documents and other
12 relevant materials for the biography project.

13
14 (17) Defendant denies that there is any conflict of
15 interest between him and the plaintiff and/or the Ralston Pilot
16 Publishing Company in violation of any fiduciary duty.

17 (18) Defendant denies the enforceability or validity
18 of Exhibit B to the Complaint. Defendant states that the non-
19 disclosure and confidentiality bonds referred to are in violation
20 of public policy, constitute a fraud on the general public and
21 Church membership, and have been adjudicated to be unenforceable
22 in the case of Church of Scientology v. La Venda Van Schaick, et al
23 Clark County, Nevada, Civil No. A196800. Defendant further
24 states that any and all information contained in the documents
25 and materials which he collected on behalf of Hubbard for Omar
26 V. Garrison contain information about a "public figure", do
27 not constitute trade secrets, reveal evidence of a sustained
28 pattern of criminal fraud and misrepresentation, and that it is

1 in violation of public policy to coerce the execution of
2 non-disclosure and confidentiality bonds in said circumstances.
3 Defendant denies that he has intentionally and without legal
4 excuse breached any duty of confidentiality.

5 (19) Defendant denies that he has made any unauthorized
6 disclosure of any confidential information, or that he has
7 caused injury to any reputation or diminution in value of any
8 materials. Defendant asserts that the referenced biography
9 of Hubbard cannot be written with the uniform misrepresentations
10 and fraudulent policies and practices exercised by the plaintiff
11 because the information contained in the documents which he
12 collected reveal said misrepresentation and fraud. Defendant
13 further alleges that the truth of the matter contained in said
14 materials is a defense to any claims for damages based upon
15 defamation. Defendant further states that public policy for-
16 bids the concealment of the information contained in said docu-
17 ments and materials and encourages the dissemination and dis-
18 closure of said information.

19 (20) Defendant denies that plaintiff is or can make
20 any demand to cease unauthorized disclosures of confidential
21 information, or that the information is confidential or that
22 he can be prevented from making said disclosures in the form
23 of affidavits to appropriate courts for the purpose of criminal
24 and civil litigation.

25 (21) Defendant denies that any unauthorized disclosures
26 of confidential information have caused any damages to the
27 plaintiff, or that the plaintiff has standing to assert any
28 such damages, or that an authorized biography of Hubbard can

1 be written by the plaintiff which is not false and fraudulent,
2 unless the plaintiff admits the truth of the information con-
3 tained in the documents and materials which he collected.

4 (22) Defendant denies that any of his acts were
5 intentional, deliberate, willful, wanton, malicious or oppressive
6 and committed with intent to defraud the plaintiff or in reckless
7 disregard of plaintiff's rights and denies that plaintiff is
8 entitled to any damages, but rather claims damages as set forth
9 in the Cross-Complaint herein.

10
11 IV.

12 THIRD CAUSE OF ACTION

13 (23) Defendant repeats and replcads each and every
14 answer contained in paragraphs 1 through 7 and 15 through 22
15 above and incorporates them by reference as though fully set
16 forth herein.

17 (24) Defendant denies that he has converted any pro-
18 perty of the plaintiff in breach of any fiduciary duty or that
19 he will be unjustly enriched at plaintiff's expense. Defendant
20 denies that a constructive trust should be impressed upon said
21 property or that he should be named as trustee on behalf of
22 the plaintiff. Defendant claims that any attempt to prevent
23 the disclosure of any of the information in said documents and
24 materials will be a prior restraint on freedom of speech and
25 expression in violation of the First Amendment to the United
26 States Constitution. Defendant further states that any infor-
27 mation in said documents is information about a public figure
28 and said information should be made available to the general

1 public and to the membership of the Church of Scientology.
2

3 IV.

4 ANSWER TO REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

5 (25) Defendant repeats and repleads each and every
6 answer contained in paragraphs 1 through 7 and 15 through 22
7 above and incorporates them herein as though fully set forth
8 herein.

9 (26) Defendant admits that there is a controversy
10 between plaintiff and defendant because plaintiff has brought
11 the subject action. Defendant denies the subject action was
12 properly brought but that it is merely intended to be harassive
13 and vexatious, and defendant denies that he owes any duty of
14 fiduciary or other nature to the plaintiff.

15 (27) Defendant admits that a judicial determination
16 of the respective rights and duties of the parties must now
17 be made because the suit has been harassively and vexatiously
18 brought by the plaintiff, but defendant denies that he owes
19 any duties and obligations to the plaintiff but rather the
20 plaintiff is responsible for fraudulent misrepresentation and
21 other torts more fully set forth in the Cross-Complaint filed
22 herewith. Defendant denies that a constructive trust should
23 be imposed upon said property.

24 (28) Defendant admits that a judicial declaration is
25 now necessary in the subject action.

26 (29) Defendant denies that this Court should prelimi-
27 narily or permanently enjoin the defendant from unauthorized
28 dissemination of any information contained in said documents

1 on the grounds that the information is not confidential,
2 that it is in violation of public policy to conceal it, that
3 plaintiff has no standing in which to bring the subject action,
4 and that information, unless it is in the form of a trade
5 secret, is not protected under the law.

6
7 VII.

8 ANSWER TO PRAYER FOR RELIEF

9 Defendant answers as follows to the plaintiff's prayers:

10 (1) Defendant denies that general and special
11 damages as to the first cause of action should be awarded to
12 the plaintiff.

13 (2) Defendant denies that the Court should order the
14 return of any property to the plaintiff based on the first cause
15 of action.

16 (3) Defendant denies that general and special damages
17 should be accorded to the plaintiff on the second cause of
18 action.

19 (4) Defendant denies that this Court should issue
20 either a temporary restraining order or a preliminary or per-
21 manent injunction prohibiting him from disseminating any in-
22 formation about the plaintiff, and that any such order would
23 be in violation of his right to freedom of speech and expression
24 under the United States Constitution, Amendment 1.

25 (5) Defendant denies that punitive and exemplary
26 damages in the amount of \$50,000.00 should be awarded per
27 cause of action.

28 (6) Defendant denies that a constructive trust should

1 be impressed upon any property in the possession of the
2 defendant.

3 (7) Defendant denies that any materials in the
4 project referred to can be disseminated, copied or made avail-
5 able to the public only with the express authorization of the
6 Church of Scientology of California.

7 (8) Defendant denies that reasonable attorneys'
8 fees or costs should be awarded in such action, except as set
9 forth in defendant's Cross-Complaint.

10
11 VIII.

12 AFFIRMATIVE DEFENSES

13 (1) And further answer the Complaint/Complaint-in-
14 Intervention, defendant states that plaintiff and intervenor
15 should be barred from seeking equitable relief by way of in-
16 junction in that plaintiff and intervenor come before this Court
17 with unclean hands. Plaintiff and intervenor seek by way of
18 injunction to suppress/destroy evidence of frauds in that the
19 documents and materials presently under seal in this case
20 evidence numerous frauds regarding the alleged background and
21 accomplishments of L. Ron Hubbard, founder of Dianetics and
22 Scientology, frauds which have been perpetrated upon defendant
23 and thousands of Scientology followers and the public.

24 (2) And further answering the Complaint/Complaint-in-
25 Intervention, defendant states that plaintiff and intervenor
26 should be barred from seeking equitable relief or any recovery
27 herein in that plaintiff and intervenor were involved in the
28 destruction by shredding of documents, which documents defendant

1 saved from destruction and preserved. Defendant fears that should
2 the documents and materials presently under seal be returned to
3 plaintiff and/or intervenor pursuant to injunction, that
4 spoliation would again result. Said documents and materials
5 are highly relevant evidence to defendant's Cross-Complaint in
6 this case and all the Scientology litigation.

7 (3) And further answering the Complaint, defendant
8 states that the plaintiff's action is barred by the doctrine
9 of laches. Hubbard has been in possession of most of the
10 information contained in the documents for the past 30 years.
11 The documents and materials collected have been in the possession
12 of Omar Garrison for a period covering at least from 1980 to
13 early 1982. Plaintiff's failure to prohibit the dissemination
14 of the documents and information to Garrison, a third party,
15 not a member of the plaintiff Church, bars any and all equitable
16 relief to prevent the dissemination of documents to other third
17 parties or to recover damages for said dissemination.

18 (4) And further answering, defendant states that the
19 plaintiff does not have standing to bring the present action. The
20 documents and materials only have value in so far as they contain
21 information about L. Ron Hubbard, a public figure. The infor-
22 mation contained in said documents could only be barred from
23 dissemination if it constituted trade secrets, was defamatory,
24 or violated a right of privacy of L. Ron Hubbard. Since Hubbard
25 has not asserted any claim to said materials on the violation
26 of either his rights of privacy, or the unlawful dissemination
27 of trade secrets or defamatory information, plaintiff has no
28 standing to assert said claim on his behalf.


1 (5) And further answering, defendant states that
 2 plaintiff cannot be entitled to damages or injunctive relief as
 3 a matter of law unless the documents and materials collected
 4 by defendant and the information contained therein have been
 5 disseminated in violation of rights of privacy of L. Ron Hubbard,
 6 constitute false and defamatory statements, or constitute trade
 7 secrets.

8 (6) And further answering, defendant states that it is
 9 against public policy and in violation of defendant's rights
 10 under the First Amendment to the U.S. Constitution to prevent
 11 him from disclosing or disseminating the information contained
 12 in the subject documents and materials, or the documents and
 13 materials themselves.

14 WHEREFORE, defendant prays that plaintiff take nothing
 15 and that defendant be given judgment against plaintiff for his
 16 costs incurred herein and for such other and further relief as
 17 may seem just and proper.

18
 19 DATED: March 16, 1984.

20
 21 CONTOS & BUNCH

22
 23 By: 
 24 JULIA DRAGOJEVIC
 25 Attorneys for Defendant
 26 GERALD ARMSTRONG